

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 421 of 1998

ASHOK P PATEL

Versus

STATE OF GUJARAT

Appearance:

MR AJ SHASTRI for Petitioners

CORAM : MR.JUSTICE S.K.KESHOTE

Date of Order: 05/02/98

C.A.V. ORDER

Heard the learned counsel for the petitioners.

2. Under the resolution No.1322 dated 6-6-1996 of the respondent No.2, the petitioners were given the promotion to the post of Sub Auditors. The State Government has interfered with this resolution of the respondent No.2 and vide its order dated 2-1-1998, as per the case of the petitioners, the said resolution has been suspended/cancelled. Hence, this special civil application.

3. One of the contentions raised by the learned counsel for the petitioners is that the order dated 2-1-1998 has been passed by the State Government without giving any notice or opportunity of hearing to the petitioners.

4. The order dated 2-1-1998 certainly affects the promotions of the petitioners which have been made to the post of Sub Auditors and it has civil consequences, and I find sufficient merits in the contention of the learned counsel for the petitioners that before passing of the order dated 2-1-1998, the petitioners should have been given an opportunity of hearing. But the approach of the petitioners to this Court directly against the order dated 2-1-1998 is wholly unjustified. Instead of approaching to this Court, the petitioners should have raised a protest against the said order before the State

Government by filing a representation, which precisely has not been done by the petitioners.

5. The learned counsel for the petitioners stated that in the special civil application No.1324/97, the petitioners therein have challenged inter-alia their promotions on the post of Sub Auditors i.e. the resolution under which the petitioners have been given the promotion to the post of Sub Auditors by the respondent No.2 is under challenge in that special civil application. The learned counsel for the petitioners states that the order dated 2-1-1998 has been passed only to get that writ petition defeated, and as such, the only course open to the petitioner was to approach to this Court by filing this special civil application.

6. This contention of the learned counsel for the petitioners is again wholly misconceived. If that is the case then the petitioners should have approached to this Court in special civil application No.1324/97 with all their grievances made in this special civil application. That course has also not been followed by the petitioners. This special civil application is nothing but the multiplicity of proceedings, which is another ground on which this petition cannot be entertained.

7. In the result, this special civil application is dismissed summarily. However, the dismissal of this petition will not come in the way of the petitioners to approach to the State Government against the order dated 2-1-1998 by filing a protest application and in case such an application is made then the respondent-State shall decide the same on merits. Similarly, the dismissal of this petition will not come in the way of the petitioners to approach this Court in special civil application No.1324/97 with appropriate application.

(S.K. Keshote,J)

zgs/-